

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

MUNCHKIN, INC.,

Plaintiff/Counter Defendant

v.

TOMY INTERNATIONAL, INC.,

Defendant/Counter Plaintiff.

Case No. 1:18-cv-06337

The Honorable Charles P. Kocoras

PLAINTIFF’S ANSWER TO DEFENDANT’S COUNTERCLAIMS

Plaintiff Munchkin, Inc. (“Counter-Defendant” or “Munchkin”), by and through its undersigned counsel, hereby answer the Counterclaims asserted by Defendant Tomy International, Inc. (“Tomy”) on November 9, 2018, as follows:

NATURE OF COUNTERCLAIMS

No response is required to Tomy’s Nature of Counterclaims statement. To the extent that any response is required, Munchkin admits that Tomy is asserting counterclaims seeking a declaration of noninfringement as to the asserted patents. Munchkin denies that such counterclaims are supported by the facts, evidence, or law.

THE PARTIES AND FACTUAL ALLEGATIONS

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.

JURISDICTION AND VENUE

5. Admitted.

6. Admitted.

7. Denied.

8. Admitted.

9. Denied. While it is true that Munchkin has identified the First Years Simply Spoutless Cups as infringing the asserted patents, Munchkin notes that there are multiple versions and lines of the Simply Spoutless Cups being sold by Tomy. All such cups infringe the asserted patents. Munchkin further reserves the right to amend its Complaint if it determines through discovery that additional products sold by Tomy infringe the asserted patents.

10. Denied.

11. Denied.

12. Denied. While it is true that Munchkin has identified the First Years Simply Spoutless Cups as infringing the asserted patents, Munchkin notes that there are multiple versions and lines of the Simply Spoutless Cups being sold by Tomy. All such cups infringe the asserted patents. Munchkin further reserves the right to amend its Complaint if it determines through discovery that additional products sold by Tomy infringe the asserted patents.

13. Denied.

14. Denied.

FIRST COUNTERCLAIM

15. No response is required to Tomy's incorporation by reference of the foregoing paragraphs of its Counterclaims. To the extent that any response is required,

Munchkin incorporates by reference all preceding responses to and denials of Tomy's allegations as if fully restated herein.

16. Denied.

SECOND COUNTERCLAIM

17. No response is required to Tomy's incorporation by reference of the foregoing paragraphs of its Counterclaims. To the extent that any response is required, Munchkin incorporates by reference all preceding responses to and denials of Tomy's allegations as if fully restated herein.

18. Denied.

RESERVATION OF RIGHTS

No response is required to Tomy's reservation of rights paragraph. To the extent that any response is required, Munchkin denies that Tomy can amend its Answer or Counterclaims at any time and asserts that any and all amendments to the pleadings, and the timing of such amendments, must comply with the Federal Rules of Civil Procedure, the applicable local rules, and the Court's eventual Scheduling Order.

PRAYER FOR RELIEF

No response is required to Tomy's prayer for relief. To the extent that any response is required to any paragraph of Tomy's prayer for relief, including without limitation the paragraphs labeled (1) through (5), Munchkin denies all allegations and denies that Tomy is entitled to any relief requested therein.

DEMAND FOR A JURY TRIAL

No response is required to Tomy's demand for a jury trial. To the extent that any response is required, Munchkin also requests a jury trial for all issues so triable pursuant to Fed. R. Civ. P. 38.

Dated: November 29, 2018

Respectfully submitted,

By: /s/ Luke M. Meriwether

One of the Attorneys for Plaintiff
MUNCHKIN, INC.

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on **November 29, 2018**, a copy of the foregoing document was filed electronically through the Court's Electronic Case Filing (ECF) System, and service of this document is being made upon all counsel of record in this case by the Notice of Electronic Filing issued through the Court's ECF System on this date.

/s/ Luke M. Meriwether
Luke M. Meriwether

One of the Attorneys for Plaintiff
MUNCHKIN, INC.